

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In Re Application of:

Kevin A. Deats

Group Art Unit: 2157

Serial No.: 09/873,689

Examiner: Gold, Avi

Filed: June 4, 2001

Docket No. 10005683-1

For: **Method and System for Reporting Event Data to Requesting Subscribers**

APPEAL BRIEF UNDER 37 C.F.R. § 41.37

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Sir:

This Appeal Brief under 37 C.F.R. § 41.37 is submitted in support of the Notice of Appeal filed November 26, 2007, responding to the Final Office Action mailed July 25, 2007.

It is not believed that extensions of time or fees are required to consider this Appeal Brief. However, in the event that additional extensions of time are necessary to allow consideration of this paper, such extensions are hereby petitioned under 37 C.F.R. § 1.136(a), and any fees required therefor are hereby authorized to be charged to Deposit Account No. 08-2025.

I. Real Party in Interest

The real party in interest is Hewlett-Packard Development Company, LP, a limited partnership established under the laws of the State of Texas and having a principal place of business at 20555 S.H. 249 Houston, TX 77070, U.S.A. (hereinafter "HPDC"). HPDC is a Texas limited partnership and is a wholly-owned affiliate of Hewlett-Packard Company, a Delaware Corporation, headquartered in Palo Alto, CA. The general or managing partner of HPDC is HPQ Holdings, LLC.

II. Related Appeals and Interferences

There are no known related appeals or interferences that will affect or be affected by a decision in this Appeal.

III. Status of Claims

Claims 4, 8, 9, 11, 14, and 15 have been canceled leaving claims 1-3, 5-7, 10, 12, 13, and 16-20 remaining. Each of those claims stand finally rejected. No claims have been allowed. The final rejections of claims 1-3, 5-7, 10, 12, 13, and 16-20 are appealed.

IV. Status of Amendments

This application was originally filed on June 4, 2001, with seventeen (17) claims. In a Response filed September 24, 2004, Applicant amended claims 1, 2, 5, 6, and 8-17, canceled claim 4, and added new claims 18-20. In a Response filed February 17, 2005, Applicant amended claims 10 and 18. In a Response filed October 13, 2005,

Applicant amended claims 1, 13, 17, and 19. In a Response filed April 26, 2007, Applicant amended claims 1, 3, 5, 6, 10, 13, 16, and 17-19.

All of the above-identified amendments have been entered and no other amendments have been made to any of claims 1-3, 5-7, 10, 12, 13, and 16-20. The claims in the attached Claims Appendix (see below) reflect the present state of those claims.

V. Summary of Claimed Subject Matter

The claimed inventions are summarized below with reference numerals and references to the written description ("specification") and drawings. The subject matter described in the following appears in the original disclosure at least where indicated, and may further appear in other places within the original disclosure.

Independent claim 1 describes a method for reporting to requesting subscribers about peripheral device events. The method comprises maintaining subscription profiles for the subscribers that indicate the subscribers' preferences in regard to event notifications and periodic subscription reports that can be provided to the subscribers, each profile specifying what peripheral device event information the subscriber wishes to receive and the format in which the subscriber wishes to receive the peripheral device event information. *Applicant's specification*, page 7, line 1 to page 8, line 18; Figure 3, item 30. The method of claim 1 further comprises gathering event data from a plurality of peripheral devices relating to peripheral device events that have occurred at the peripheral devices. *Applicant's specification*, page 6, lines 5-19; page 9, lines 14-15; Figure 6, items 72 and 74. The method of claim 1 further comprises saving the

event data to a database. *Applicant's specification*, page 6, lines 5-19; page 9, lines 15-16; Figure 6, item 76. The method of claim 1 further comprises automatically sending to designated subscribers event notifications upon occurrence of the peripheral device events, the event notifications being sent according to criteria contained in the subscriber profiles. *Applicant's specification*, page 9, lines 19-22; Figure 6, items 84 and 86. The method of claim 1 further comprises separate from sending the event notifications, automatically generating periodic subscription reports at regular periodic intervals according to criteria contained in the subscriber profiles and automatically sending the periodic subscription reports to designated subscribers according to criteria contained in the subscriber profiles. *Applicant's specification*, page 9, line 23 to page 10, line 19; Figure 7, items 104, 110, 118, 120, 122, and 124.

Independent claim 17 describes a computer program product comprising a computer usable medium having computer readable program codes embodied in the medium that when executed cause a computer to perform various actions. The codes cause a computer to maintain subscription profiles for subscribers that indicate the subscribers' preferences in regard to event notifications and periodic subscription reports that can be provided to the subscribers, each profile specifying what peripheral device event information the subscriber wishes to receive and the format in which the subscriber wishes to receive the peripheral device event information. *Applicant's specification*, page 7, line 1 to page 8, line 18; Figure 3, item 30. The codes further cause a computer to gather event data from a plurality of peripheral devices relating to peripheral device events that have occurred at the peripheral devices. *Applicant's specification*, page 6, lines 5-19; page 9, lines 14-15; Figure 6, items 72 and 74. The

codes further cause a computer to save the event data to a database. *Applicant's specification*, page 6, lines 5-19; page 9, lines 15-16; Figure 6, item 76. The codes further cause a computer to automatically send to designated subscribers event notifications upon occurrence of the peripheral device events, the event notifications being sent according to criteria contained in the subscriber profiles. *Applicant's specification*, page 9, lines 19-22; Figure 6, items 84 and 86. The codes further cause a computer to separate from sending the event notifications, automatically generate periodic subscription reports at regular periodic intervals according to criteria contained in the subscriber profiles and automatically send the periodic subscription reports to designated subscribers according to criteria contained in the subscriber profiles. *Applicant's specification*, page 9, line 23 to page 10, line 19; Figure 7, items 104, 110, 118, 120, 122, and 124.

VI. Grounds of Rejection to be Reviewed on Appeal

The following grounds of rejection are to be reviewed on appeal:

1. Claims 1-3 and 17 have been rejected under 35 U.S.C. § 103(a) as being unpatentable over *Poisner* (U.S. Pat. No. 6,842,776) further in view of *Devine, et al.* ("Devine," U.S. Pat. No. 6,944,662).
2. Claims 5-7, 10, 12, 13, and 16-19 have been rejected under 35 U.S.C. § 103(a) as being unpatentable over *Poisner* and *Devine* in view of *Grasso, et al.* ("Grasso," U.S. Pat. No. 5,892,909).
3. Claim 20 has been rejected under 35 U.S.C. § 103(a) as being unpatentable over *Poisner* and *Devine* in view of *Barrett, et al.* ("Barrett," U.S. Pat. No. 5,568,612).

VII. Arguments

The Appellant respectfully submits that Applicant's claims are not obvious under 35 U.S.C. § 103, and respectfully requests that the Board of Patent Appeals overturn the final rejections of those claims at least for the reasons discussed below.

Claim Rejections - 35 U.S.C. § 103(a)

As has been acknowledged by the Court of Appeals for the Federal Circuit, the U.S. Patent and Trademark Office ("USPTO") has the burden 35 U.S.C. § 103 to establish obviousness by showing objective teachings in the prior art or generally available knowledge of one of ordinary skill in the art that would lead that individual to the claimed invention. *In re Fine*, 837 F.2d 1071, 1074, 5 U.S.P.Q. 2d 1596, 1598 (Fed. Cir. 1988). The key to supporting an allegation of obviousness under 35 U.S.C. § 103 is the clear articulation of the reasons why the Examiner believes that claimed invention would have been obvious. *See* MPEP § 2141. As stated by the Supreme Court, "[r]ejections on obviousness cannot be sustained by mere conclusory statements; instead, there must be some articulated reasoning with some rational underpinning to support the legal conclusion of obviousness." *KSR v. Teleflex*, 550 U.S. at ___, 82 USPQ2d at 1396 (quoting *In re Kahn*, 441 F.3d 977, 988, 78 USPQ2d 1329, 1336 (Fed. Cir. 2006)) .

In the present case, the Examiner has not established using clearly articulated reasons that Applicant's claims are obvious in view of the prior art. Applicant discusses those claims in the following.

A. Rejection of Claims 1-3 and 17

Claims 1-3 and 17 have been rejected under 35 U.S.C. § 103(a) as being unpatentable over *Poisner* (U.S. Pat. No. 6,842,776) further in view of *Devine, et al.* ("Devine," U.S. Pat. No. 6,944,662). Applicant respectfully traverses this rejection.

Applicant's independent claim 1, from which claims 2 and 3 depend, provides as follows:

1. A method for reporting to requesting subscribers about peripheral device events, the method comprising:

maintaining subscription profiles for the subscribers that indicate the subscribers' preferences in regard to event notifications and periodic subscription reports that can be provided to the subscribers, each profile specifying what peripheral device event information the subscriber wishes to receive and the format in which the subscriber wishes to receive the peripheral device event information;

gathering event data from a plurality of peripheral devices relating to peripheral device events that have occurred at the peripheral devices;
saving the event data to a database;

automatically sending to designated subscribers event notifications upon occurrence of the peripheral device events, the event notifications being sent according to criteria contained in the subscriber profiles; and

separate from sending the event notifications, automatically generating periodic subscription reports at regular periodic intervals according to criteria contained in the subscriber profiles and automatically sending the periodic subscription reports to designated subscribers according to criteria contained in the subscriber profiles.

1. Automatically Sending Event Notifications Upon Occurrence of Events According to Criteria Contained in Subscriber Profiles

In addressing claim 1 on page 3 of the final Office Action, the Examiner alleged that Poisner discloses “automatically sending to designated subscribers notification according to criteria contained in the subscriber profiles.” As a first matter, Applicant notes that the above phrase is not what Applicant is recited in claim 1. Instead, claim 1 explicitly requires the action of “automatically sending to designated subscribers *event notifications upon occurrence of the peripheral device events*, the event notifications being sent according to criteria contained in the subscriber profiles” (emphasis added). As identified in Applicant’s two previous responses to the Examiner, Poisner does not disclose sending notifications as to *events* that occur at a peripheral device or sending the event notifications *upon their occurrence*, i.e., when they happen. Instead, Poisner merely discloses receiving “usage information” and transmitting that information to a “remote database.” *Poisner*, column 2, lines 29-37. Furthermore, Poisner explicitly states that the information is transmitted “on a regular basis,” i.e., periodically. *Poisner*, column 3, lines 45-48. Clearly, such periodic transmission is not sending a notification as to an event upon its occurrence. Furthermore, periodic transmission does not render obvious sending a notification as to an even upon its occurrence, and the Examiner made no arguments to that effect.

As a second matter, Poisner clearly does not disclose sending event notifications “according to criteria contained in the subscriber profiles”. Specifically, Poisner is silent to any such “profile.” Indeed, the Examiner *explicitly admits this* on page 3:

Poisner *fails to teach* the limitation further including maintaining subscription profiles for the subscribers that indicate the subscribers' preferences in regard to event notification . . .

Final Office Action, page 3, last paragraph (emphasis added).

In view of the above, it is clear that Poisner does not in fact disclose "automatically sending to designated subscribers event notifications upon occurrence of the peripheral device events, the event notifications being sent according to criteria contained in the subscriber profiles" as implied in the final Office Action. Furthermore, automatic sending of notifications upon the occurrence of events according to criteria contained in profiles is not rendered obvious by Poisner's disclosure, and the Examiner makes no arguments to that effect. Given that the Examiner further has not established that Devine teaches or suggests the "automatically sending" limitation, the Examiner has failed to establish that claim 1 is obvious over the Poisner/Devine combination.

2. Automatically Generating/Sending Periodic Reports According to Criteria in Subscriber Profiles

Also on page 3 of the final Office Action, the Examiner alleges that Poisner discloses "automatically generating periodic subscription reports at regular periodic intervals according to criteria contained in the subscriber profiles and automatically sending the periodic subscription reports to designated subscribers according to criteria contained in the subscriber profiles". This is untrue. Again, Poisner is silent as to the use of "subscriber profiles" and the Examiner has admitted that fact.

3. Maintaining Subscription Profiles

In addition to the above-described limitations, Applicant's claim 1 contains the limitation: "maintaining subscription profiles for the subscribers that indicate the subscribers' preferences in regard to event notifications and periodic subscription reports that can be provided to the subscribers, each profile specifying what peripheral device event information the subscriber wishes to receive and the format in which the subscriber wishes to receive the peripheral device event information". Because, as admitted by the Examiner, Poisner does not disclose such subscription profiles, the Examiner turns to the Devine reference, which is alleged to provide disclosure of that limitation. In particular, the Examiner cites column 49, lines 12-43 and column 55, lines 30-37 of the Devine reference. Those passages provide as follows:

With reference to FIG. 8, as each service dataset is received from the publisher it is combined with other datasets and re-broadcast until the destination subscriber 470 receives the subscribed-to datasets. Thus, servers 410, 420, and 430 each broadcast datasets to server 440 that combines the received datasets into a larger package. When the package is complete, it is then broadcast to the next level down. At the bottom of the hierarchy is the subscribed client 470, which unpacks the datasets as they are received.

Depending on the number of layers there will be a hierarchy in the storage format of the datasets. The unpacking function can either detect the number of layers automatically, or make use of information added at each re-broadcast indicating the number of levels.

The step of combining may include calculating a result based on data from more than one broadcasting source. For example, the receiving CD 10 may compute a figure of merit comparing the performance of two

similar machines in production lines. The CD 10 may then become a publisher for a new service whose function is to make this comparison, and then broadcast the result to one or more subscribers. The broadcast may be on a demand basis (i.e., requested by the subscriber for immediate delivery), on a scheduled basis (i.e., updated versions delivered periodically to the subscriber based on current data), or on an actuated basis (i.e., computed and sent each time new data are received by the publisher CD 10). It is also within the scope of this type of service to provide warnings and other types of notifications to subscribers based on the result of the comparative calculation, and for the broadcast to be triggered by comparative calculation yielding a value exceeding some threshold.

An example of custom handling includes the case where the subscriber only requires, for example, a single number from the service output dataset. Through custom handling of the service output, the subscriber can specify that specific output data be received, and also how the output is to be formatted. Thus, a subscriber can create sophisticated, custom reports using data obtained from a number of distributed services in the format(s) of the subscriber's choice.

Devine, column 49, lines 12-43; column 55, lines 30-37

In reply, Applicant asserts that the above passages do not in fact disclose the aspects of the “maintaining subscription profiles” limitation of claim 1. First, those passages do not describe “subscription profiles” at all. Although Devine states that a subscriber “specifies output data to be received” in column 55, such a disclosure is *not* a teaching of a “profile” that contains subscriber preferences.

Second, the cited passages of the Devine reference fail to disclose maintaining subscriptions that indicate subscriber preferences “in regard to event notifications”. Again, although Devine speaks of particular “output data” to be received, that output data is not described in the cited passages as comprising “event notifications”, i.e., notifications as to “peripheral device events that have occurred at the peripheral devices”. See claim 1.

Third, the cited passages of the Devine reference do not disclose a profile that specifies “the format in which the subscriber wishes to receive the peripheral device event information”. Regarding Devine’s discussion of a subscriber creating custom reports in the format of the subscriber’s choice, what Devine is actually describing is a subscriber receiving a report in a fixed format and then modifying it after it is received. That is, the publisher sets the format, without any input from the subscriber, and the subscriber can modify it as the subscriber sees fit once it has been received. As described by Devine:

The output format of a service is specified by the publisher, and the delivered data may be altered by the subscriber at the point of delivery, such as by discarding unwanted data.

Devine, column 6, lines 22-25. Furthermore, Devine states:

It is noted that in the preferred implementation all data specified in the service output is delivered to the subscriber. The subscriber then decides what data to use and what to ignore.

Devine, column 11, line 67 to column 12, line 3. In view of the fact that the publisher sets the format, it logically follows that no “profile” is used to control the format of the information that the subscriber receives from the publisher in *Devine*’s system.

4. Conclusion as to Claims 1-3 and 17

In view of the foregoing, it is clear that the Examiner has not met his burden under 35 U.S.C. § 103 in establishing the alleged obviousness of Applicant’s claim 1. Applicant therefore asserts that claim 1, and claims 2 and 3 which depend therefrom, are allowable over the *Poisner/Devine* combination. Regarding independent claim 17, Applicant notes that claim 17 contains limitations similar to those of claim 1. In view of that fact, Applicant submits that claim 17 is allowable for similar reasons.

B. Rejection of Claims 5-7, 10, 12, 13, and 16-19

Claims 5-7, 10, 12, 13, and 16-19 have been rejected under 35 U.S.C. § 103(a) as being unpatentable over *Poisner* and *Devine* in view of *Grasso, et al.* (“*Grasso*,” U.S. Pat. No. 5,892,909). Applicant respectfully traverses the rejection.

As identified above, *Poisner* and *Devine* do not teach aspects of Applicant’s claims. In that *Grasso* does not remedy the deficiencies of the *Poisner* and *Devine* references, Applicant respectfully submits that claims 5-7, 10, 12, 13, and 16-19 are allowable over the *Poisner/Devine/Grasso* combination for at least the same reasons that claims 1, 10, and 17 are allowable over *Poisner/Devine*.

C. Rejection of Claim 20

Claim 20 has been rejected under 35 U.S.C. § 103(a) as being unpatentable over *Posiner* and *Devine* in view of *Barrett, et al.* ("Barrett," U.S. Pat. No. 5,568,612). Applicant respectfully traverses the rejection.

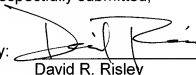
As identified above, *Poisner* and *Devine* do not teach aspects of Applicant's claims. In that *Grasso* does not remedy the deficiencies of the *Poisner* and *Devine* references, Applicant respectfully submits that claim 20 is allowable over the *Poisner/Devine/Barrett* combination for at least the same reasons that claims 1 is allowable over *Poisner/Devine*.

VIII. Conclusion

In summary, it is Applicant's position that Applicant's claims are patentable over the applied prior art references and that the rejection of these claims should be withdrawn. Appellant therefore respectfully requests that the Board of Appeals overturn the Examiner's rejection and allow Applicant's pending claims.

Respectfully submitted,

By:



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Claims Appendix under 37 C.F.R. § 41.37(c)(1)(viii)

The following are the claims that are involved in this Appeal.

1. A method for reporting to requesting subscribers about peripheral device events, the method comprising:

maintaining subscription profiles for the subscribers that indicate the subscribers' preferences in regard to event notifications and periodic subscription reports that can be provided to the subscribers, each profile specifying what peripheral device event information the subscriber wishes to receive and the format in which the subscriber wishes to receive the peripheral device event information;

gathering event data from a plurality of peripheral devices relating to peripheral device events that have occurred at the peripheral devices;

saving the event data to a database;

automatically sending to designated subscribers event notifications upon occurrence of the peripheral device events, the event notifications being sent according to criteria contained in the subscriber profiles; and

separate from sending the event notifications, automatically generating periodic subscription reports at regular periodic intervals according to criteria contained in the subscriber profiles and automatically sending the periodic subscription reports to designated subscribers according to criteria contained in the subscriber profiles.

2. The method according to claim 1 wherein the event data comprises information relating to any one from the group of region, manufacture, model or customer identification.

3. The method according to claim 1 wherein the periodic subscription reports comprise information in the form of text, tables, charts and/or graphs.

4. (Canceled)

5. The method according to claim 1 further comprising:
receiving a request to set up or change a subscriber profile;
receiving new subscriber information and entering it to a subscriber profile; and
saving the new subscriber profile.

6. The method according to claim 5 wherein entering new subscriber information comprises:

entering contact information of a subscriber;
entering the subscriber's desired notification request;
entering subscription report criteria; and
entering a designated time cycle for subscription report.

7. (Original) The method according to claim 6 wherein the time cycle includes any one from the group of none, daily, weekly, monthly, quarterly or yearly.

8-9. (Canceled)

10. The method according to claim 1 wherein automatically sending to designated subscribers event notifications comprises:

searching a subscriber profile for notification requests for the event data according to requested criteria;

determining whether there are any notification requests for the event data;

composing notifications for each notification request determined in the subscriber profile; and

sending out the notifications to the requesting subscriber.

11. (Canceled)

12. The method according to claim 10 wherein the requested criteria includes any one from the group of event occurrence by page count, event occurrence by region, event occurrence by manufacturing information, event occurrence by device model, or event occurrence by customer.

13. The method according to claim 1 wherein automatically generating periodic subscription reports comprises:

searching a subscriber profile for any scheduled subscription report due;
determining whether there is any scheduled subscription report due; and
accessing information relating to the subscriber of any predetermined scheduled subscription report due.

14-15. (Canceled)

16. The method according to claim 13 further comprising:
sorting the information for the scheduled subscription report according to criteria of the requesting subscriber profile; and
formatting the information to generate the report.

17. A computer program product comprising a computer usable medium having computer readable program codes embodied in the medium that when executed causes a computer to:

maintain subscription profiles for subscribers that indicate the subscribers' preferences in regard to event notifications and periodic subscription reports that can be provided to the subscribers, each profile specifying what peripheral device event information the subscriber wishes to receive and the format in which the subscriber wishes to receive the peripheral device event information;

gather event data from a plurality of peripheral devices relating to peripheral device events that have occurred at the peripheral devices;

save the event data to a database;

automatically send to designated subscribers event notifications upon occurrence of the peripheral device events, the event notifications being sent according to criteria contained in the subscriber profiles; and

separate from sending the event notifications, automatically generate periodic subscription reports at regular periodic intervals according to criteria contained in the subscriber profiles and automatically send the periodic subscription reports to designated subscribers according to criteria contained in the subscriber profiles.

18. The product according to claim 17 wherein automatically sending to designated subscribers event notifications comprises:

searching a subscriber profile for notification requests for the event data according to requested criteria;

determining whether there are any notification requests for the event data;

composing notifications for each notification request determined in the subscriber profile; and

sending out the notifications to the requesting subscriber.

19. The product according to claim 17 wherein automatically generating periodic subscription reports comprises:

searching a subscriber profile for any scheduled subscription report due;

determining whether there is any scheduled subscription report due; and

accessing information relating to the subscriber of any predetermined scheduled subscription report due.

20. The method according to claim 1, wherein the event data comprises one or more of paper jams, low memory conditions, and undefined paper size conditions.

Evidence Appendix under 37 C.F.R. § 41.37(c)(1)(ix)

There is no extrinsic evidence to be considered in this Appeal. Therefore, no evidence is presented in this Appendix.

Related Proceedings Appendix under 37 C.F.R. § 41.37(c)(1)(x)

There are no related proceedings to be considered in this Appeal. Therefore, no such proceedings are identified in this Appendix.